IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

(1) F.A.O. NO. 684 of 1988

....

Vijay Kumar.

..... Appellant

Versus

Punjab State and others.

..... Respondents

(2) F.A.O. NO. 685 of 1988

....

Miss Daljit Kaur Shekhon.

..... Appellant

Versus

Punjab State and others.

..... Respondents

(3) F.A.O. NO. 833 of 1988

....

Punjab State and another.

..... Appellants

Versus

Miss Daljit Kaur Shekhon.

..... Respondents

(4) F.A.O. NO. 834 of 1988

....

Punjab State and another.

..... Appellants

Versus

Vijay Kumar.

..... Respondents

Date of Decision: 20.9.2006

CORAM: Hon'ble Mr.Justice Mahesh Grover

....

Present: None for the appellants in F.A.O.Nos.684 and 685 of 1988
and for the respondents in F.A.O.Nos.833 and 834 of 1988.
Shri Amrik Singh Ramgarh, Additional Advocate General,
Punjab for the appellants in FA.O.Nos.833 and 834 of 1988
and for the respondents in F.A.O.Nos. 684 and 685 of 1988.

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Mahesh Grover,J.

This judgment will dispose of the above-mentioned appeals as they relate to one motor vehicular accident, although two separate awards have been given by Motor Accident Claims Tribunal, Rupnagar (hereinafter described as `the Tribunal').

On 7.7.1986, Vijay Kumar (claimant-appellant) along with his sister-Mrs. Kiran Kansal and her minor daughter Ricky was coming from Moga to Chandigarh in car bearing registration no.PAP-25 being driven by

him at a normal speed. When they reached near a Rice Sheller at a distance of about one kilometer from Morinda, a bus bearing registration no.PKG-3101 owned by the Punjab Roadways and being driven by Dilbara Singh-driver in a rash and negligent manner came from opposite side and hit the car from wrong side. Resultantly, the car was badly damaged and its occupants sustained injuries. Later on, Ricky succumbed to her injuries in the hospital.

Vijay Kumar-injured and Daljit Kaur Shekhon- owner of the car filed two separate claim petitions. The Tribunal, vide its impugned judgments, awarded Rs.1,17,000/- as compensation for the injuries sustained by Vijay Kumar and Rs.40,000/- to the owner of the car for the damages. Besides, interest at the rate of 12% per annum from the date of petitions till the date of realisation was also awarded.

Vijay Kumar and Daljit Kaur Shekhon have filed appeals for enhancement of the compensation, whereas Punjab State and the Punjab Roadways have filed appeals for setting aside of the awards passed by the Tribunal.

Although no assistance has been rendered by either of the parties, yet, after perusing the record, I am of the considered opinion that the compensation awarded by the Tribunal on account of injuries sustained by Vijay Kumar deserves enhancement, whereas the amount allowed for the damages caused to the car does not warrant any interference. It may also be mentioned that Shri Amriik Singh Ramgarh, learned Additional Advocate General, Punjab, who was present in the Court, did not lay any serious challenge to the awards of the Tribunal.

The evidence on record reveals that Vijay Kumar sustained the

following fractures:-

1. Fracture both bones right leg.

2. Fracture patella right side communicated.

3. Fracture shaft femur right side (compound type)

4. Fracture of ther left side ulna.

In addition to the above fractures, he had received scalp and facial soft tissue injuries on the right side. The total disability was assessed at approximately 40%. Apart from this, the injuries left permanent scars on the body of the injured-claimant. He also remained hospitalised for about two months.

The Tribunal has awarded compensation of Rs.1,17,000/- to claimant-Vijay Kumar as under:-

(i)Rs.50,000/- as general damages.

(ii)Rs.10,000/- as medical expenses.

(iii)Rs.5000/- as expenses for special diet.

(iv)Rs.2,000/- as expenses of special attendant.

(v)Rs.50,000/- as loss of earning capacity.

The settled law for assessing just and reasonable compensation payable to a victim of an accident is that the damages have to be assessed separately as pecuniary damages and special damages. The pecuniary damages are, indeed, capable of being calculated by simple arithmetical calculations, but the compensation to be awarded under the non-pecuniary damages is in the realm of the grey area of the law relating to damages which shall always remain a victim of conjectures.

Having regard to the nature of the fractures/injuries received by Vijay Kumar in the accident, as also to the fact that his potentiality in the

field of acting in the films and making of the movies, which vocation he was pursuing, would have been adversely affected as a result thereof, I am of the view that the compensation awarded to him is on the lower side. There is evidence on record to show that he had taken an amount of Rs.42000/- for his treatment from M/S Aryavrat Chitra.

As a corollary to the above discussion, I deem it fit and proper in the circumstances of the case to enhance the amount of compensation for the medical expenses incurred by the claimant from Rs.10,000/- to Rs.43,000/- and the amount of Rs.50,000/- granted as general damages is enhanced to Rs.1,00,000/-. The total amount of compensation, therefore, comes to Rs.2,00,000/- to be paid to the injured-claimant.

Accordingly, the award of the Tribunal is modified and the claimant-Vijay Kumar is held entitled to a sum of Rs.2,00,000/- as compensation for the injuries suffered by him in the accident in question. Besides, he shall receive interest at the rate of 7-1/2% per annum on the amount of enhanced compensation from the date of petition till the date of realisation. Punjab State, Punjab Roadways and the driver of the offending bus shall be jointly as well as severally liable to pay the enhanced amount of compensation to the injured-claimant.

Resultantly, F.A.O.No. 684 of 1988 is allowed, whereas F.A.O.Nos.685, 833 and 834 of 1988 are dismissed.

September 20,2006 (Mahesh Grover)
"SCM" Judge